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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
9 IN AND FOR THE COUNTY OF KING

10 AMELIA SAPPHERE, individually and as class
11 representative,

12 Plaintiff,

13 vs.

14 FRED MEYER STORES, INC.;

15 Defendant.
16

No.

COMPLAINT FOR DAMAGES

CLASS ACTION

17 **I. SUMMARY STATEMENT**

18 1. Plaintiff AMELIA SAPPHERE ("Plaintiff") brings this action on behalf of
19 herself and all similarly situated current and former employees of Fred Meyer Stores, Inc.
20 Plaintiff alleges that Fred Meyer Stores, Inc. activated a new payroll system in September
21 2022 that caused widespread pay issues that are in violation of Washington wage laws.
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23 **II. JURISDICTION AND VENUE**

24 2. Jurisdiction. Defendant is within the jurisdiction of this Court. Defendant
25 does business in the state of Washington, including King County. Defendant Fred Meyer
26 Stores, Inc. is a foreign profit corporation registered in the state of Washington.

27 3. Venue. Venue is proper in King County because Defendant operates and
28

1 conducts business in King County.

2
3 4. Governing Law. The claims asserted on behalf of Plaintiff and Class members
4 in this complaint are brought solely under state law causes of action and are governed
5 exclusively by Washington law.

6 5. Lack of CAFA Jurisdiction. Federal jurisdiction is inappropriate under the Class
7 Action Fairness Act, 28 U.S.C. § 1332(d).

8 9 **III. PARTIES**

10 6. Plaintiff Amelia Sapphire is a resident of the State of Washington, County of
11 Clark. Plaintiff was employed by Fred Meyer beginning on or around August 15, 2022.
12 Plaintiff currently works for Fred Meyer in the bakery department at its store in Hazel Dell
13 at 7700 NE Highway, Vancouver, WA 98665.

14 7. Defendant Fred Meyer Stores, Inc. ("Fred Meyer") is a chain of retail grocery
15 stores incorporated under the laws of the State of Ohio with its principal place of business at
16 1014 Vine Street, Cincinnati, Ohio 45202.

17 18 **IV. CLASS ACTION ALLEGATIONS**

19 8. Class Definition. Pursuant to Washington Civil Rule 23, Plaintiff brings this
20 case as a class action on behalf of a Class defined as follows:

21
22 All individuals who are or have been employed by Fred Meyer in
23 the State of Washington at any time since the activation of the new
24 payroll system, which is believed to have occurred in September
25 2022, through the date of final disposition of this action.

26
27 9. Numerosity. Plaintiff believes that more than 10,000 individuals have worked
28 as hourly paid, non-exempt employees for Fred Meyer in Washington during the relevant

1 period.

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3 10. Commonality. There are numerous questions of law and fact common to
4 Plaintiff and Class members. These questions include, but are not limited to, the following:

5 a. Whether Fred Meyer has engaged in a common course of failing to
6 keep true and accurate records of all time worked;

7
8 b. Whether Fred Meyer has engaged in a common course of failing to pay
9 Class members for all time worked;

10 c. Whether Fred Meyer has engaged in a common course of failing to pay
11 Class members all overtime wages owed for hours worked in excess of forty per workweek;

12 d. Whether Fred Meyer engaged in a common course of making unlawful
13 deductions to the wages of Plaintiff and Class members;

14
15 e. Whether Fred Meyer willfully deprived Plaintiff and the Class of the
16 wages to which they were entitled;

17 f. Whether Fred Meyer has violated RCW 49.12.020;

18 g. Whether Fred Meyer has violated RCW 49.46.090;

19 h. Whether Fred Meyer has violated RCW 49.46.130;

20 i. Whether Fred Meyer has violated RCW 49.48.010;

21 j. Whether Fred Meyer has violated RCW 49.52.060;

22 k. Whether Fred Meyer has violated WAC 296-126-028;

23 l. Whether Fred Meyer has violated RCW 49.52.050; and

24 m. The nature and extent of class-wide injury and the measure of
25 compensation for such injury.
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27

28 11. Typicality. Plaintiff's claims are typical of the claims of the proposed class
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1 because their claims arise from the same practices by Fred Meyer which give rise to the claims
2 of the other members of the class and are based on the same legal theories.

3
4 12. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
5 Plaintiff has retained competent and capable attorneys who are experienced trial lawyers with
6 significant experience in complex and class action litigation, including employment law.
7 Plaintiff and her counsel are committed to prosecuting this action vigorously on behalf of the
8 Class and have the financial resources to do so. Neither Plaintiff nor her counsel have interests
9 that are contrary to or that conflict with those of the proposed Class.
10

11 13. Predominance. Fred Meyer has engaged in a common course of wage and hour
12 abuse toward Plaintiff and members of the Class. The common issues arising from this
13 conduct that affect Plaintiff and members of the Class predominate over any individual
14 issues.
15

16 14. Superiority. Plaintiff and Class members have suffered and will continue to
17 suffer harm and damages due to Fred Meyer's unlawful and wrongful conduct. Absent a class
18 action, however, most Class members likely would find the cost of litigating their claims
19 prohibitive. Class treatment is superior to multiple individual suits or piecemeal litigation
20 because it conserves judicial resources, promotes consistency and efficiency of adjudication,
21 provides a forum for small claimants, and deters illegal activities. There will be no significant
22 difficulty in the management of this case as a class action. The Class members are readily
23 identifiable from Fred Meyer's records.
24

25 **V. FACTS COMMON TO ALL CLAIMS**

26
27 15. On or around September 2022, Fred Meyer activated a system of human
28 resources programs and software commonly referred to as an "enterprise resource planning"
29

1 or "ERP" system. As part of its new ERP system, Fred Meyer activated a new payroll system
2 for its hourly paid, non-exempt employees in Washington.
3

4 16. The new payroll system has caused widespread pay issues for Plaintiff and
5 members of the Class, including but not limited to: (1) missing or late paychecks, (2)
6 canceled direct deposits, (3) incorrect payment of wages, (4) incorrect recording of hours
7 worked, (5) incorrect deductions or withholdings from wages, (6) incorrect or missing
8 statements of deductions or withholdings, and (7) delayed disbursement of deductions or
9 withholdings to the appropriate recipients.
10

11 17. Fred Meyer knew, or should have known, in advance of activating the new
12 payroll system that it would cause widespread pay issues. Given the magnitude of the system
13 change and examples of pay problems from other companies that have made similar system
14 changes, the issues with the new payroll system should have been predicted. Further, Fred
15 Meyer did not conduct adequate planning and testing to ensure that members of the Class
16 would be accurately paid.
17

18 18. The issues in Fred Meyer's new payroll system have been so widespread and
19 severe that many members of the Class have gone weeks without any pay.
20

21 19. The pay issues resulting from Fred Meyer's new payroll system are ongoing
22 and have not been fully remedied as of the filing of this action.

23 **VI. FIRST CLAIM FOR RELIEF**
24 **(Violation of RCW 49.46.090—Payment of Wages Less Than Entitled)**

25 20. Plaintiff and the Class reallege and incorporate by reference each allegation set
26 forth in the preceding paragraphs.

27 21. Under RCW 49.46.090, employers must pay employees all wages to which they
28

1 are entitled under the Washington Minimum Wage Act (WMWA).
2

3 22. As a result of the unlawful acts of Fred Meyer, Plaintiff and the Class have been
4 deprived of compensation in amounts to be determined at trial and pursuant to RCW
5 49.46.090(1), Plaintiff and the Class are entitled to recovery of such damages, including
6 interest thereon, as well as attorneys' fees and costs.
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8 **VII. SECOND CLAIM FOR RELIEF**
9 **(Violations of RCW 49.46.130—Failure to Pay Overtime Wages)**

10 23. Plaintiff and the Class reallege and incorporate by reference each allegation set
11 forth in the preceding paragraphs.

12 24. RCW 49.46.130 provides that “no employer shall employ any of his or her
13 employees for a workweek longer than forty hours unless such employee receives
14 compensation for his or her employment in excess of the hours above specified at a rate not
15 less than one and one-half times the regular rate at which he or she is employed.”
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17 25. As a result of the unlawful acts of Fred Meyer, Plaintiff and the Class have
18 been deprived of compensation in amounts to be determined at trial and pursuant RCW
19 49.46.130, Plaintiff and the Class are entitled to recovery of such damages, including interest
20 thereon, as well as attorneys' fees and costs.

21 **VIII. THIRD CLAIM FOR RELIEF**
22 **(Violation of RCW 49.52.060 and WAC 296-126-028 - Unlawful Deductions**
23 **or Rebates)**

24 26. Plaintiff and the Class reallege and incorporate by reference each allegation set
25 forth in the preceding paragraphs.

26 27. Pursuant to RCW 49.52.060 and WAC 296-126-028, an employer may not
27 make deductions from employee's wages except in limited circumstances.
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2 28. Under Washington law, deductions and rebates must be identified and recorded
3 “openly and clearly in employee payroll records.” WAC 296-126-028(5); see also RCW
4 49.52.060; WAC 296-128-010(9).

5 29. By the actions alleged above, Fred Meyer took unlawful wage deductions or
6 collected unlawful rebates from the wages of Plaintiff and Class members in violation of
7 Washington law.

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9 30. As a result of the unlawful acts of Fred Meyer, Plaintiff and the Class have been
10 deprived of compensation in amounts to be determined at trial. Pursuant to RCW 49.52.060
11 and WAC 296-126-028, Plaintiff and the Class are entitled to recovery of such damages,
12 including interest thereon, as well as attorneys’ fees under RCW 49.48.030 and costs.

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14 **IX. FOURTH CLAIM FOR RELIEF**
(RCW 49.52.050—Willful Refusal to Pay Wages)

15 31. Plaintiff and the Class reallege and incorporate by reference each and every
16 allegation set forth in the preceding paragraphs.

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18 32. RCW 49.52.070 provides that any employer who “willfully and with intent to
19 deprive the employee of any part of his wages, pays any employee a lower wage than the
20 wage such employer is obligated to pay such employee by any statute, ordinance, or
21 contract” is guilty of a misdemeanor.

22 33. RCW 49.52.070 provides that any employer who violates the foregoing statute
23 shall be liable in a civil action for twice the amount of wages withheld, together with costs
24 of suit and reasonable attorneys’ fees.

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26 34. The alleged unlawful actions by Fred Meyer against Plaintiff and the Class, as
27 set forth above, were committed willfully and with intent to deprive Plaintiff and the Class
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of part of their wages.

35. As such, based on the above allegations, Fred Meyer violated the provisions of RCW 49.52.050.

36. As a result of the unlawful acts of Fred Meyer, Plaintiff and the Class have been deprived of compensation in amounts to be determined at trial, and pursuant to RCW 49.52.070 are entitled to recovery of twice such amounts, including interest thereon, attorneys' fees and costs.

X. PRAYER FOR RELIEF

37. WHEREFORE, Plaintiff, on her own behalf and on behalf of the members of the Class, prays for a judgment against Defendant Fred Meyer Stores, Inc. as follows:

- a) Certify the proposed Class;
- b) Appoint Plaintiff as Class representative;
- c) Appoint the undersigned attorneys as Class counsel;
- d) Declare that the actions complained of herein violate Washington law;
- e) Award Plaintiff and Class members compensatory and exemplary damages;
- f) Award attorneys' fees and costs to Plaintiff's attorneys, as allowed by law;
- g) Award pre-judgment and post-judgment interest to Plaintiff and Class members, as provided by law; and
- h) Grant such other and further relief as this Court deems necessary.

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DATED this 23rd day of November, 2022.

MENDEZ LAW GROUP, PLLC



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